

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Order entered: 9/25/2006

**ORDER RE: TARGETING OF PORTION OF ENERGY EFFICIENCY UTILITY BUDGET**

**I. INTRODUCTION**

In this Order, we address the appropriate balance among three statutory objectives related to "targeting" some or all of the Energy Efficiency Utility ("EEU") budget toward specific goals.<sup>1</sup> We conclude that it is appropriate to: (1) maintain the requirements in the Board's current contract with the entity serving as the EEU that address geographic and customer class equity concerns (referred to herein as "equity requirements") for the original 2006, 2007, and 2008 EEU budget levels; and (2) target the additional funding amounts ordered in our August 2, 2006, Order establishing new EEU budget levels for those years. Initially we seek to maximize peak capacity reductions statewide, and ultimately, energy and capacity reductions in targeted geographic areas. We also set forth a process for determining which geographic areas should be targeted in the future.

**II. PROCEDURAL HISTORY**

Act 61<sup>2</sup> became law in July 2005. Act 208<sup>3</sup> became law in May 2006. Both these laws included new statutory objectives that the Board must balance regarding possible targeting of some or all of the EEU budget. These statutory objectives are:

- providing the opportunity for all Vermonters to participate in efficiency programs;
- the value of targeting efficiency efforts to locations, markets or customers where they may provide the greatest value; and

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1. Historically, the EEU has provided the same services throughout the state, subject to certain guidance from the Vermont Public Service Board ("Board") regarding customer class and geographic equity considerations. In 2005 and again in 2006, legislation was passed that included new statutory objectives for the Board to consider when determining what guidance to provide the EEU regarding equity considerations.

2. P.A. No. 61 (2005 Vt., Bien. Sess.)

3. P.A. No. 208 (2006 Vt., Adj. Sess.).

- limiting the need to upgrade the state's transmission and distribution infrastructure.

The Board held an extensive process to implement the various EEU-related provisions of Act 61. This process is described in detail in our August 2, 2006, Order Re: Energy Efficiency Utility Budget for Calendar Years 2006, 2007, and 2008, and we do not repeat it here.

In our August 2, 2006, Order, we determined that it would be helpful to receive additional comments from workshop participants on how to balance the three statutory objectives related to targeting given the specific new budget levels that we established in that Order. Three participants filed comments: Central Vermont Public Service Corporation ("CVPS"); Green Mountain Power Corporation ("GMP"); and the Vermont Department of Public Service ("DPS"). No participants filed reply comments.

### **III. PARTICIPANTS' RECOMMENDATIONS**

CVPS recommends that "a significant portion" of the incremental EEU funding be "used to address transmission or distribution constraints in known DUP target areas and areas identified in the VELCO Long-Range Transmission Plan." CVPS further recommends that the Board "work with utilities and the [DPS] to identify areas where efficiency investments can be deployed strategically to best address electric system concerns."<sup>4</sup>

GMP recommends that equity considerations should be defined in terms of results (benefits) rather than dollars spent. GMP added that the EEU should include the following in its calculation of a program's or measure's benefits: delayed/avoided transmission and distribution costs; delayed/avoided substation construction; energy saved; demand saved/deferred on peak days; recent growth; and planned growth. GMP recommends that residential, commercial, and industrial customer class results/benefits should match, as close as practicable, the amount of dollars invested in the EEU by each sector. GMP also argues that it is more valuable to save energy in some locations than in others, and allocating resources to where saved kWh are most valuable would be equitable and provide the most benefit to Vermont.<sup>5</sup>

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4. Letter from Bruce W. Bentley, CVPS, to Susan M. Hudson, Clerk, Board, dated August 18, 2006.

5. Letter from David P. Martin, GMP, to Susan Hudson, Clerk, Board, dated August 18, 2006.

The DPS recommends that the Board "maintain existing contract performance targets as a baseline for addressing geographic and customer class equity concerns" and use the incremental EEU budget to target constrained areas and "areas that are expected to see the greatest growth." The DPS notes that the VELCO Long Range Plan provides a "useful reference point that, together with related utility and DPS planning activities, will help guide current and future efficiency program performance targets." The DPS also recommends that the Board "maintain budgeted program activities in rough proportion to class revenues." The DPS recommends that the Board maintain the current minimum performance standard for low-income performance as a percent of the original budget levels, with the possibility of revisiting these targets after the Board's low-income collaborative concludes. Finally, the DPS recommends that the Board place greater emphasis on summer demand savings.<sup>6</sup>

#### **IV. DISCUSSION**

Equity considerations, or how to balance the EEU's efforts among different customer classes and different areas of the state, have been important since the EEU's creation. When 30 V.S.A. §§ 209(d) and (e) (the statutes that specifically relate to the EEU) were first passed, they required the Board to:

Ensure that all retail consumers, regardless of retail electricity or gas provider, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation.<sup>7</sup>

In addition, the Memorandum of Understanding ("MOU") that was approved by the Board in its 9/30/99 Order in Docket 5980 (the investigation which resulted in the creation of the EEU) contained further distributional equity requirements, including several provisions related to Distributed Utility Planning<sup>8</sup> ("DUP") which also affect geographic equity.

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6. Letter from J. Riley Allen, DPS, to Susan M. Hudson, Board, dated August 21, 2006.

7. 30 V.S.A. § 209(e)(1).

8. DUP involves expanding distribution utilities' transmission and distribution ("T&D") planning processes to include options for using demand-side management and distributed generation to reduce the cost of maintaining the reliability of power delivery by avoiding or deferring transmission, distribution, or other network investments. DUP

The Board has addressed these equity considerations through provisions in its performance-based contracts with the entity serving as the EEU. The provisions related to equity considerations in the current EEU contract<sup>9</sup> establish the allocation of the EEU's funds among customer classes, and require the EEU to provide certain levels of service to low-income customers, and small-business customers, and in each county. The contract also includes provisions that implement the aspects of DUP related to the EEU that are contained in the MOU in Docket 5980.

Acts 61 and 208 include new statutory criteria that the Board must balance when determining appropriate equity considerations related to the EEU's activities. In particular, they require the Board to consider targeting the EEU's activities, and set out at least one objective that could most effectively be met by geographically targeting the EEU's activities (limiting the need to upgrade the state's transmission and distribution infrastructure).

In light of this new statutory guidance, we have reevaluated the equity requirements that we previously imposed on the EEU. After considering participants' recommendations, we conclude that it is appropriate to continue to apply the current equity requirements to the "base" EEU budget (the budget that existed prior to our August 2, 2006, Order), but to use the additional EEU funding that we authorized in our August 2, 2006, Order in a targeted manner. This will enable the EEU to continue to provide the opportunity for all Vermonters to participate in efficiency programs as the new statutory language requires, while maximizing the value that can be obtained for Vermont from additional focused energy-efficiency activities as contemplated by the new statutes.<sup>10</sup>

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was explored more fully in Docket 6290, which resulted in, among other things, the establishment of guidelines for DUP.

9. The Board operates the EEU on a three-year contract cycle. 2006 is the first year of the third contract cycle.

10. If we removed all the equity requirements and instead required the EEU to use its entire budget to maximize energy savings, the EEU would deliver only a few types of services to certain types of customers, according to an expert from the EEU. For example, the EEU would no longer serve low-income customers, who are among the most expensive customers to serve. This would not be consistent with the statutory requirement that the EEU provide an opportunity for all Vermonters to participate in energy-efficiency programs.

The question of how to target the incremental funding is more complicated. One of the four "priority" objectives that the statute requires the Board to consider when determining the EEU budget is limiting the need to upgrade the state's transmission and distribution infrastructure. This goal clearly contemplates geographic targeting of areas where such upgrades might be necessary. It is our intention to ultimately use all of the incremental funds to target such areas, which could include areas experiencing high load growth or areas where there are concerns about the capacity of transmission and distribution infrastructure.<sup>11</sup> However, the identification of these areas requires factual information that has not been presented in this proceeding. Some of this information may be included in distribution utility Integrated Resource Plans, Vermont Electric Power Company's ("VELCO") Long-Range Transmission Plan, or various documents related to the identification of constrained areas pursuant to the Distributed Utility Planning process. We do not believe, however, that there currently is one source that comprehensively identifies both all high-load-growth areas in Vermont and areas where there are concerns about the capacity of transmission and distribution infrastructure. Nor has there been a comprehensive process that identifies which of those areas could most benefit from energy efficiency investments.

Therefore, we direct Board staff to convene a technical working group to:

- (1) identify both high-load-growth areas and areas where there are concerns about the capacity of transmission and distribution infrastructure; and
- (2) provide recommendations to the Board for prioritizing energy-efficiency investments in these areas, taking into account the ability of energy efficiency to defer or avoid transmission and distribution investments in each area, as well as the size of the energy-efficiency investment that would be needed to accomplish the deferral or avoidance.<sup>12</sup>

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11. Such geographic targeting could include the delivery of strategic retrofit and early retirement services in the identified areas, if those services are more cost-effective than traditional lost-opportunity services.

12. It may be appropriate to coordinate the activities of this working group with the proceedings in, or outcome of, Docket 7081, the Board's pending investigation into integrated resource planning for VELCO's system. Therefore, we are providing a copy of this Order to the parties to that proceeding.

We intend for this planning process to include all Vermont electric distribution and transmission utilities as well as the DPS and any other parties who choose to participate. The technical working group's first meeting will be at 1:30 P.M. on Tuesday, October 3, 2006.

We recognize that it may take some time for the technical working group to finish its assignments, but we do not want to delay all targeting of the incremental funds until the work is completed. Instead, we determine that it is appropriate to use a different method of targeting the 2006 EEU funds at this time.<sup>13</sup> Specifically, we will direct the EEU to use the incremental 2006 EEU funds to acquire cost-effective peak-capacity savings wherever possible throughout the state.<sup>14</sup>

Capacity reductions during peak times can help reduce the need to upgrade transmission and distribution infrastructure. In addition, peak-capacity savings also produce peak-energy savings. These can be among the most cost-effective energy-efficiency savings to acquire because they avoid the highest-priced electricity. Therefore, we conclude that targeting the 2006 EEU funds in this manner will further the statutory objective of targeting energy-efficiency activities in ways that provide the greatest value.

#### *Changes in Implementation of the Docket 5980 MOU*

As we explained in our August 2, 2006, Order establishing revised 2006, 2007, and 2008 EEU budgets, the components of the MOU regarding distributional equity and limitation of the EEU's activities to system-wide programs must be revisited in light of the new requirements of Acts 61 and 208.<sup>15</sup> Our decision today sets forth new guidance to the EEU regarding equity considerations and expands its activities to include targeted energy efficiency services that are consistent with Acts 61 and 208, but are, in some areas, inconsistent with the language of the

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13. It is our hope that the Board will be able to make a decision about which geographic areas to target by the end of 2006. If this turns out not to be possible, then we would expect the EEU to continue to target the 2007 incremental funds in the same manner as the 2006 incremental funds, until such time as the Board directs otherwise.

14. In directing the EEU in this manner, we do not mean that the incremental funds can only be used to acquire peak-capacity savings. Rather, we intend for the EEU to focus its efforts on acquiring peak-capacity savings while continuing to provide comprehensive services to each customer so as to minimize lost opportunities.

15. Order of 8/2/06 at 33-34.

MOU and the terms of the Board's September 30, 1999, Order approving the MOU. To the extent that the decisions in this Order are inconsistent with the terms of the September 30, 1999, (or other) Board Order, the earlier orders are superceded. Specifically, as explained further below, the future implementation of ¶¶ 37, 41, and 45 of the MOU is affected by today's Order.

Paragraph 45 of the MOU states:

Over time, the System-wide Programs offered by the EEU should generally reflect a level of expenditure that corresponds to electric energy use by geographic region and customer class throughout the state. In this regard, the Parties agree that the design of the System-wide Programs and the budgets for those Programs should generally seek to provide a level of service to customer classes and regions of the state that corresponds to their share of the eligible energy efficiency potential and their contribution to DSM expenditures.<sup>16</sup>

This paragraph conflicts with some of the statutory objectives included in Acts 61 and 208. In this Order, and in the future, we will balance the statutory objectives in determining what type of distributional equity is appropriate, rather than automatically applying the distributional equity provisions of ¶ 45 of the MOU. After balancing the statutory objectives, we have decided at the present time to maintain the current distributional equity requirements on the "base" EEU funding, and direct the EEU to target the incremental funding as explained above.

The MOU also defined the scope of the EEU's role in DUP — the EEU provides distribution utilities with certain information that the EEU has as a result of its activities; the EEU must respond to solicitations for bids from a distribution utility for DSM implementation arising out of DUP; and the EEU

... may provide increments to the Core Programs in DUP-identified target areas, and deploy additional strategic retrofit programs. The [distribution utility] receiving such services will pay the incremental costs for added measures, marketing and coordination and the full cost of any additional programs.<sup>17</sup>

The MOU reiterated the distinction between funding for system-wide programs and DUP efforts when it stated:

The EEU budgets and funding mechanisms agreed to in paragraphs 17, 21, and 24 of this [memorandum of understanding] are for the administration and

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16. Docket 5980, Order of 9/30/99, p. A-21 – A-22, ¶ 45.

17. Docket 5980, Order of 9/30/99, p. A-20 – A-21, ¶ 41.

implementation of System-wide Programs (including the Core Programs) which are statewide programs addressing system-wide DSM. [Distribution utilities] shall budget separately and pay in addition to the EEU budget for DUP planning and implementation by the EEU or other entity.<sup>18</sup>

These two MOU paragraphs limit the EEU's activities that are paid for by the energy efficiency charge ("EEC") collections in a manner that would prohibit geographic targeting, particularly in DUP-identified target areas. This conflicts with the provisions of Acts 61 and 208 that direct the Board to consider targeting some of the EEU's activities when determining the amount of the EEC and its allocation. We have determined that, given the new statutory objectives, it is appropriate to use a portion of the EEU's budget for geographically targeted activities. Therefore, we will no longer implement the first sentence of ¶ 37, and ¶ 41, to the extent necessary to enable the EEU to conduct targeted activities, paid for by EEC collections, in DUP-identified target areas (if it is subsequently determined by the Board that those are among the appropriate geographic areas to target).

We note that nothing in this Order affects the requirements of ¶¶ 37 and 41 related to distribution utility responsibility for budgeting and paying for DUP planning and implementation by the EEU or other entity. In other words, it may well be the case that the EEU could deliver some targeted energy-efficiency services funded by the EEC in a DUP-identified target area, and the distribution utility that serves that target area would also be responsible for paying for and delivering additional energy-efficiency services through DUP.

#### *Contract Negotiations with Entity Serving as the EEU*

The Board intends to enter into negotiations with the entity currently serving as the EEU to modify the terms of the Board's contract with this entity to be consistent with the terms of this Order and the Board's August 2, 2006, Order.

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18. Docket 5980, Order of 9/30/99, p. A-19 – A-20, ¶ 37.

## **V. CONCLUSION**

We conclude that it is appropriate to maintain the current equity requirements for the original 2006, 2007, and 2008 EEU funding, and to target the incremental funding ordered in our August 2, 2006, Order establishing new EEU budget levels for those years, initially toward maximizing capacity reductions statewide, and ultimately toward energy and capacity reductions in targeted geographic areas. We will convene a technical working group to make recommendations to the Board regarding which geographic areas should be targeted in the future.

## **VI. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The current equity requirements for the original 2006, 2007, and 2008 Energy Efficiency Utility ("EEU") funding shall be maintained.
2. The incremental EEU funding provided for in our August 2, 2006, Order establishing new EEU budget levels for 2006, 2007, and 2008 shall be targeted, initially toward peak-capacity reductions, and ultimately toward energy and capacity reductions in targeted geographic areas.
3. A technical working group shall be established to: (1) identify both high-load-growth areas and areas where there are concerns about the capacity of transmission and distribution infrastructure; and (2) provide recommendations to the Board for prioritizing energy-efficiency investments in these areas, taking into account the ability of energy efficiency to defer or avoid transmission and distribution investments in each area, as well as the size of the energy-efficiency investment that would be needed to accomplish the deferral or avoidance.
4. Each Vermont electric distribution and transmission utility shall participate in the technical working group. Other parties may participate in the technical working group.
5. The technical working group's first meeting shall be held on Tuesday, October 3, 2006, commencing at 1:30 P.M., at the Public Service Board's Hearing Room, located on the 3<sup>rd</sup> Floor of the Chittenden Bank Building at 112 State Street, in Montpelier, Vermont.
6. To the extent that the decisions in this Order are inconsistent with the terms of the September 30, 1999, (or other) Board Order, the earlier orders are superceded.

Dated at Montpelier, Vermont, this 25th day of September, 2006.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: September 25, 2006

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*